

CITY COUNCIL AGENDA

SEPTEMBER 23, 2008

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:30 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Campos, Nguyen. (Excused)

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Campos. (Excused)

7:03 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Campos. (Excused)
- **Invocation (District 8)**
Pastor Solomon Tolentino, The Filipino 7th Day Adventist Church presented an inspirational prayer.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session actions of September 23, 2008:
 - A. **Authority to Pursue Appellate Review in a Litigation Case:**

Case Name: **Fong, et al. v. City of San José, et al.**

CLOSED SESSION (Cont'd.)

Adverse Party or Parties: Richard E. De La Rosa, Dennis Fong and José Mendoza

Substance of Litigation: Defamation action.

Council Vote: Ayes: Chirco, Chu, Constant, Liccardo, Oliverio, Pyle, Williams; Reed.

Noes: None.

Disqualified: None.

Absent: Campos, Cortese, Nguyen. (Excused)

Vacant: None.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to the Dr. Martin Luther King, Jr. Library in celebration of its fifth anniversary and unique status as a co-developed and co-managed facility between the City of San José and San José State University. (Liccardo)
Mayor Reed and Council Member Liccardo recognized the Dr. Martin Luther King, Jr. Library in celebration of its fifth anniversary and because of its unique status.
- 1.2** Presentation of gifts from the Dublin, Ireland Sister City Delegation. (Pyle/Williams) (Rules Committee referral 9/17/08)
Council Members Pyle and Williams presented gifts from the Dublin, Ireland Sister City Delegation to Mayor Reed, who accepted on behalf of the City of San José. Members of the delegation were present also.
- 1.3** Presentation of a commendation to SEMI for being an outstanding corporate citizen and a key contributor to the economy in San José and across the globe. (Mayor/Chu) (Orders of the Day)
Mayor Reed and Council Member Chu recognized and commended SEMI for being an exceptional corporate citizen and for its tremendous contributions to the economy of the City of San José and across the globe.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

(a) Regular Minutes of June 10, 2008

(b) Special Meeting Minutes of June 16, 2008

(c) Regular Minutes of June 17, 2008

Deferred to 9/30/08 per City Clerk.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28394 – Rezoning certain real property situated on the north side of Olsen Drive, approximately 100 feet west of Cypress Avenue (3315 Olsen Drive) to the R-2(PD) Planned Development Zoning District. PDC08-008

Ordinance No. 28394 adopted.

- (b) ORD. NO. 28395 – Rezoning certain real property situated on the southeast side of Montecito Vista Drive, 660 feet southwest of Monterey Road (2745 Monterey Road), to A(PD) Planned Development Zoning District. PDC08-032

Ordinance No. 28395 adopted.

- (c) ORD. NO. 28396 – Rezoning certain real property situated on both sides of Olsen Drive, between South Cypress Avenue and Doma Drive, and east of South Cypress Avenue, approximately 300 feet southerly of Kirkwood Drive from Count of Santa Clara to R-2 Two-Family Residence Zoning District. C08-019

Ordinance No. 28396 adopted.

- (d) ORD. NO. 28397 – Rezoning certain real property situated on the north side of Olin Avenue, approximately 400 feet westerly of Winchester Boulevard from County of Santa Clara to CO Commercial Office Zoning District. C08-019

Ordinance No. 28397 adopted.

- (e) ORD. NO. 28398 – Rezoning certain real property situated west of Winchester Boulevard between Stevens Creek Boulevard and Highway 280 from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C08-019

Ordinance No. 28398 adopted.

- (f) ORD. NO. 28399 – Rezoning certain real property situated at the west side O'Brien Court, extending southerly approximately 120 feet from the southwest corner of Campbell Avenue (1001 – 1015 O'Brien Court), to A(PD) Planned Development Zoning District. PDC06-126

Ordinance No. 28399 adopted.

- (g) ORD. NO. 28400 – Rezoning certain real property situated on the southeast corner of the intersection of the Alameda and Bush Street (746 The Alameda) to A(PD) Planned Development Zoning District. PDC07-009

Ordinance No. 28400 adopted.

2.3 Naming of a new park.

Recommendation: As recommended by the Parks and Recreation Commission, name a new park located at the northeasterly corner of Piercy Road and Tennant Avenue as "Piercy Park". (City Clerk)

Approved.

2. CONSENT CALENDAR

2.4 Naming of a new park.

Recommendation: As recommended by the Parks and Recreation Commission, name a new park located at North King Road and Dobbin Avenue as “Newbury Park”. (City Clerk)
Deferred for more outreach per District 3.

2.5 Rebudget of Funds to Complete Various Projects.

Recommendation:

(a) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund (Fund 375):

- (1) Increase the Beginning Fund Balance by \$372,000; and
- (2) Increase the Hitachi Turnkey Project Design Review and Inspection appropriation to the Parks, Recreation and Neighborhood Services Department by \$372,000.

Ordinance No. 28402 adopted.

Resolution No. 74587 adopted.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Excise Tax Fund (Fund 465):

- (1) Increase the Beginning Fund Balance by \$30,000; and
- (2) Increase the Community Facilities District No. 14 Feasibility Study Project appropriation to the Department of Public Works by \$30,000.

CEQA: Not a Project. (City Manager’s Office/Public Works/Parks, Recreation and Neighborhood Services)

Ordinance No. 28403 adopted.

Resolution No. 74588 adopted.

2.6 Grant Application for a Solar America Cities Project.

Recommendation:

(a) Approve an agreement with the Department of Energy to conduct the Solar America Cities activities, for the term of July 1, 2008 through June 30, 2010, and to accept a grant in an amount not-to-exceed \$200,000.

Approved.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Department of Energy grant agreement to revise the total program cost over the two year term of the grant agreement of not-to-exceed \$463,464.

Resolution No. 74589 adopted.

2. CONSENT CALENDAR

2.6 Grant Application for a Solar America Cities Project (Cont'd.)

(c) Adopt the following Appropriation Ordinance and Funding Source Resolution amendments in the General Fund:

- (1) Increase the estimate in the General Fund for Revenue from the Federal Government by \$110,606.
- (2) Increase the Environmental Services Department's personal services appropriation by \$40,311.
- (3) Increase the Environmental Services Department's non-personal/equipment appropriation by \$70,295.

CEQA: Not a Project. (Environmental Services/City Manager's Office)

Ordinance No. 28404 adopted.

Resolution No. 74590 adopted.

2.7 Change Order for the Water Pollution Control Plant's Electrical Distribution System.

Recommendation: Approve a Contract Change Order No. 1 for the Switchgear M5, Interim Ring Bus, and Medium Voltage Cables Replacement Design-Build Project with Rosendin Electric, Inc., for a credit in the amount of \$300,000. CEQA: Exempt, File No. PP04-03-079. (Environmental Services)

Approved.

2.8 Initiation of the Following Annexation/Reorganizations.

Recommendation:

- (a) Adopt a resolution initiating proceedings and setting a public hearing on Tuesday, October 21, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as Winchester No. 42, which involves the annexation to the City of San José of approximately 85 gross acres of land located west of Winchester Boulevard between Stevens Creek Boulevard and Highway 280 and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No.65459. Council District 1. (Planning, Building and Code Enforcement)

Resolution No. 74591 adopted.

- (b) Adopt a resolution initiating proceedings and setting a public hearing on Tuesday, October 21, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as Buena Vista No. 2, which involves the annexation to the City of San José of approximately 40 gross acres of land located south of West San Carlos Street, west of Meridian Avenue and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, Burbank Sanitary District, Sunol Sanitary District, and Area No. 01 (Library Services). CEQA: Resolution No.65459. Council District 6. (Planning, Building and Code Enforcement)

Resolution No. 74592 adopted.

2. CONSENT CALENDAR

2.8 Initiation of the Following Annexation/Reorganizations (Cont'd.)

- (c) Adopt a resolution initiating proceedings and setting a public hearing on Tuesday, October 21, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as Riverside No. 51 which involves the detachment of 3.4 gross acres of land located along Santa Teresa Boulevard, 100 feet southeast of Bayliss Drive from the South Santa Clara Fire Protection District. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)
Resolution No. 74593 adopted.

2.9 Roundtable Drive Pedestrian Lighting Improvements Project.

Recommendation: Report on bids and award of contract for the Roundtable Drive Pedestrian Lighting Improvements Project to the low bidder, San José Signal Electric Construction, Inc., in the amount of \$180,752, and approval of a contingency in the amount of \$18,000. CEQA: Exempt, File No. PP06-105. Council District 2. SNI: Edenvale/Great Oaks. (Public Works)

Approved.

2.10 Redevelopment Agency Executive Director's Travel to Chicago, IL.

Recommendation: Approve travel by Redevelopment Agency Executive Director Harry Mavrogenes to Chicago, IL on October 1-3, 2008 to attend the San José Silicon Valley Chamber of Commerce "City-to-City" trip. Source of Funds: Redevelopment Agency. (Redevelopment Agency)
(Rules Committee referral 9/10/08)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

No Report.

3.2 Report of the Special Rules and Open Government Committee – August 29, 2008

Mayor Reed, Chair

Accepted.

3.3 Report of the Rules and Open Government Committee – September 10, 2008

Mayor Reed, Chair

Accepted.

3.4 Report of the Public Safety, Finance and Strategic Support Committee

Council Member Nguyen, Chair

No Report.

3. STRATEGIC SUPPORT SERVICES

3.5 Purchase of Insurance Policies.

Recommendation: Approve the purchase of certain City and Redevelopment Agency insurance policies (property and liability for City; property only for Redevelopment Agency) for the period October 1, 2008 to October 1, 2009 at a cost not-to-exceed \$2,000,000 from Factory Mutual Insurance Company, ACE Property & Casualty Insurance Company and Lloyds of London, Indian Harbor Insurance Company, Travelers Property Casualty Insurance Company, and Westchester Fire Insurance Company. CEQA: Not a Project. (HR)

Renumbered to Item 9.3.

3.6 Report of the Rules and Open Government Committee – August 27, 2008

Mayor Reed, Chair

Accepted.

3.7 Report of the Rules and Open Government Committee – September 3, 2008

Mayor Reed, Chair

Accepted.

3.8 AB 31 (De Leon) – Statewide Park Development and Community Revitalization Act of 2008.

Recommendation: As referred by the Rules and Open Government Committee of September 17, 2008, consider a position of support for AB 31 (De Leon) – Statewide Park Development and Community Revitalization Act of 2008. (City Clerk)

[Rules Committee referral 9/17/08 – Item C(1)(b)]

Position of support accepted.

3.9 Measure A – Hospital Seismic Safety and Medical Facilities.

Recommendation: As referred by the Rules and Open Government Committee of September 17, 2008, consider a position of support for Measure A – Hospital Seismic Safety and Medical Facilities. (City Clerk)

[Rules Committee referral 9/17/08 – Items G(2) and G(1)]

Position of support accepted.

3.10 2008 League of California Cities Resolutions.

Recommendation: As referred by the Rules and Open Government Committee of September 17, 2008, approve the recommended City positions for four (4) resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in Long Beach on September 24 – 27, 2008. (City Clerk)

[Rules Committee referral 9/17/08 – Items G(3)]

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee

Council Member Pyle, Chair

No Report.

4.2 Early Consideration of General Plan amendment for property located on the east side of Dove Road approximately 400 feet north of Hassler Parkway (4200 Dove Hill Road).

Recommendation: Denial or continued processing of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Silver Creek Planned Residential Community/Non-Urban Hillside to a new land use designation to be determined to allow 290-340 assisted-living units on five acres of a 21-acre site on the east side of Dove Road approximately 400 feet north of Hassler Parkway (4200 Dove Hill Road) (Salvatore Caruso, Applicant/Stanislaus and Eleanore Kuehne, Owner).

CEQA: Incomplete. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends continued processing of the General Plan amendment request to change the Land Use/Transportation Diagram designation to a new land use designation to allow up to 340 assisted-living units on five acres of the subject site (5-2-0, Commissioner Zito and Jensen opposed).

GP08-08-03 – District 8

The Planning Commission recommendation to continue processing the General Plan amendment request was approved per the memorandum from Vice Mayor Cortese.

4.3 Public Hearing on the Reorganization of Meridian No. 73.

Recommendation: Conduct a public hearing and adoption of a resolution ordering the reorganization of territory designated as Meridian No. 73 which involves the annexation to the City of San José of an approximately 147 gross acre County island located between Hamilton Avenue and Dry Creek Road, west of Meridian Avenue and east of the City of Campbell boundary, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Resolution No. 74596 adopted.

Noes: Constant.

4.4 Public Hearing on the Reorganization of Hamilton No. 59.

Recommendation: Conduct a public hearing and adoption of a resolution ordering the reorganization of territory designated as Hamilton No. 59 which involves the annexation to the City of San José of an approximately 131 gross acre County island located between Meridian Avenue and Leigh Avenue, north of Hamilton Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (PBCE)

Resolution No. 74597 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Public Hearing on the Reorganization of Burbank No. 41.

Recommendation: Conduct a public hearing and adoption of a resolution ordering the reorganization of territory designated as Burbank No. 41 which involves the annexation to the City of San José of an approximately 16 gross acre County island located on the north side of Stevens Creek Boulevard, west of Revey Avenue, including additional properties along Bellerose Drive, Di Salvo Avenue, Ciro Avenue, O'Connor Drive and Bailey Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)

Resolution No. 74598 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – September 11, 2008 Council Member Chirco, Chair

Accepted.

5.2 Watson Park Master Plan.

Recommendation: Approve the Watson Park Master Plan and adopt a resolution incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP07-130. Council District 3. SNI: 13th Street. (Parks, Recreation and Neighborhood Services)

Resolution No. 74599 adopted.

5.3 Mayor's Gang Prevention Task Force Strategic Work Plan 2008-2011.

Recommendation: Approve the Action, Collaboration, Transformation (ACT) – A plan to break the cycle of youth violence and foster hope, the Mayor's Gang Prevention Task Force Strategic Work Plan 2008-2011. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/Police)

[Public Safety, Finance and Strategic Support Committee referral August 21, 2008 – Item (c)]

Heard first in the evening.

Approved.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee – September 8, 2008
Council Member Williams, Chair
Accepted.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Actions Related to the “Cities Keep It Clean” Program.

Recommendation:

- (a) Adopt a “Cities Keep It Clean Resolution” expressing the City’s commitment to work cooperatively with Save the Bay and other program participants in the *Cities Keep It Clean* Program and to strive to implement a majority of the *Cities Keep It Clean* Program Actions to improve water quality in our creeks, rivers, and the San Francisco Bay.
- (b) Direct staff to continue developing strategies to protect the Bay from trash by:
 - (1) Requiring local retail stores to dramatically decrease the use of plastic grocery bags, requiring or encouraging reusable bags through ban or fee programs.
 - (2) Requiring local food establishments to dramatically reduce the use of non-biodegradable/non-compostable take out food containers through ban or fee programs.
 - (3) Establishing green waste/composting programs to facilitate proper disposal of bio-plastic alternatives to Styrofoam and plastic bags.
 - (4) Establishing a fee based fund for clean up of litter hot spots.
- (c) Reduce Pharmaceutical contamination from the Bay by establishing permanent medicine disposal sites that are easy and convenient for individuals to use to reduce flushing medications into local waterways.

CEQA: Not a Project. (Environmental Services)

Deferred to 10/7/08 per Administration.

7.2 City Water Conservation Plan.

Recommendation: Approve the City Water Conservation Plan, which will be used by City staff as a guidance document to implement water conservation efforts through Fiscal Year 2010-11. CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee 9/8/08 – Item (e)]

Approved.

The City Attorney requested to analyze the issue of tiered rates to promote conservation.

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 Private Sector Green Building Policy.

Recommendation:

- (a) Adopt a resolution approving a new Council Policy entitled “Private Sector Green Building Policy” for new construction.
- (b) Direct staff to draft an ordinance establishing mandatory green building Standards for private sector development for Council adoption.

CEQA: Exempt. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

[Transportation and Environment Committee 9/8/08 – Item (h)]

Deferred to 10/7/08 per Mayor.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Community Center Joint Use Agreement with Oak Grove School District.

Recommendation:

- (a) Approve a joint use agreement among the City of San José, San José Redevelopment Agency and the Oak Grove School District for the design, construction and joint use of a Community Center and parking lot on the Caroline Davis Intermediate School campus.

Approved.

- (b) City Council certification that (1) funding strategies will be pursued so that the projected funding for operation and maintenance of the Community Center will be made available in fiscal year 2010-2011, the first year of operation and (2) appropriate efforts will be undertaken so that those funding strategies cover the entire cost of the Community Center project, including operation and maintenance costs, as to not require a decrease in existing basic neighborhood services.

CEQA: Mitigated Negative Declaration, File No. PP08-003. Council District 2. SNI: Edenvale/Great Oaks. (City Manager’s Office/Redevelopment Agency)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Design, Construction and Transfer of the Proposed Edenvale Community Center.

Recommendation:

- (a) Conduct a public hearing as required by Health and Safety Code Section 33679 and adopt a resolution by the City Council making certain determinations required by Health and Safety Code Section 33445 for Agency funding of the Edenvale Community Center (“Center”).

**The public hearing was held.
Resolution No. 74594 adopted.**

- (b) Approve a Cooperation Agreement by the City Council and Redevelopment Agency Board providing for the Agency’s construction of the Center, the City’s occupation and maintenance of the Center, for the transfer of City funds in the amount of \$5,307,000 to Agency for construction of the Center, and the transfer of all the Agency’s rights, title and interest in the Center following its completion.

Approved.

- (c) Adopt a resolution by the Redevelopment Agency Board:
- (1) Approve the proposed increase of \$5,307,000 to the FY 2008-09 Adopted Capital Budget, Miscellaneous Revenue line item from City San José.
 - (2) Approve an adjustment to the FY 2008-09 Adopted Capital Budget adding \$9,628,153 to the Edenvale/Great Oaks – Edenvale Community Center project line in the Strong Neighborhood Initiative (SNI) Redevelopment Area.
 - (3) Amend the FY 2008-09 Agency Appropriations Resolution.

Redevelopment Agency Resolution No. 5855 adopted.

- (d) Adopt the following 2008-2009 Appropriation Ordinance amendments in the General Fund (Fund 001):

- (1) Establish a Transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,435,000.
- (2) Decrease in the Neighborhoods Capital Improvements Fund Earmarked Reserve by \$1,435,000.

Ordinance No. 28405 adopted.

- (e) Adopt the following 2008-2009 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund; Parks Purposes Council District #2 (Fund 378):

- (1) Establish a transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,517,000.
- (2) Establish an Edenvale Community Center Fixtures, Furniture and Equipment appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$600,000.
- (3) Increase the Council District 2 Public Art appropriation by \$59,000.
- (4) Decrease the Reserve: District 2 Community Center by \$2,117,000.
- (5) Decrease the Ending Fund Balance by \$59,000.

Ordinance No. 28406 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Design, Construction and Transfer of the Proposed Edenvale Community Center (Cont'd.)

- (f) Adopt the following 2008-2009 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):

- (1) Establish a transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,065,000.
- (2) Decrease the Reserve: Calpine Open Space by \$565,000.
- (3) Decrease the Reserve: District 2 Community Center by \$500,000.

Ordinance No. 28407 adopted.

- (g) Adopt the following 2008-2009 Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):

- (1) Establish a transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,290,000.
- (2) Decrease the Reserve: District 2 Community Center by \$1,290,000.

Ordinance No. 28408 adopted.

- (h) Adopt a resolution by the Redevelopment Agency Board approving the award of a construction contract to Ralph Larsen & Son, Inc., the lowest responsive bidder, in the amount of \$12,594,000, for the construction of the Edenvale Community Center, and authorizing a construction contingency of \$906,000 for a total contract amount of \$13,500,000.

Redevelopment Agency Resolution No. 5856 adopted.

- (i) Approve the second amendment to the agreement by the Redevelopment Agency Board with Carrier Johnson Architects, in the amount of \$432,250 for a total contract amount not-to-exceed \$1,747,490, amending the scope of services to include contract administration and project close out, modifying the Schedule of Performance and extending the term of the agreement to June 30, 2010.
- (j) Approve the second amendment to the agreement by the Redevelopment Agency Board with Gilbane Building Company, in the amount of \$860,000 for a total contract amount not-to-exceed \$1,260,000, amending the scope of services to include construction administration and project close out, modifying the Schedule of Performance and extending the term of the agreement to June 30, 2010.

CEQA: Mitigated Negative Declaration, File No PP08-003. Council District 2. SNI: Edenvale/Great Oaks. (City Manager's Office/Redevelopment Agency)
(Deferred from 9/9/08 – Item 9.1)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.3 Purchase of Insurance Policies.

Recommendation: Approve the purchase of certain City and Redevelopment Agency insurance policies (property and liability for City; property only for Redevelopment Agency) for the period October 1, 2008 to October 1, 2009 at a cost not-to-exceed \$2,000,000 from Factory Mutual Insurance Company, ACE Property & Casualty Insurance Company and Lloyds of London, Indian Harbor Insurance Company, Travelers Property Casualty Insurance Company, and Westchester Fire Insurance Company. CEQA: Not a Project. (Human Resources)

Renumbered from Item 3.5.

Approved.

- **Open Forum**

- (1) **Michael Van Every congratulated the Mayor and City Council for bringing Tesla Motors and 1,000 new Green Jobs to the City of San José.**
- (2) **Mark Trout suggested posting a 19 MPH speed limit at the Camden Exit off Highway 85.**

- **Adjournment**

The Council of the City of San José adjourned the afternoon session at 4:09 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located at the southwest terminus of Fortran Court (4405 Fortran Drive) from A(PD) Planned Development Zoning District to IP Industrial Park Zoning District to allow industrial park uses, including religious assembly in a vacant building on a 5.15 gross acre site (Fortran Court Investors, LLC, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C08-039 – District 4

Ordinance No. 28409 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Various actions regarding Strong Neighborhoods Initiative Edenvale/Great Oaks Neighborhood Improvement Plan Amendment.

Recommendation:

- (a) Accept the Strong Neighborhoods Initiative (SNI) Edenvale/Great Oaks Neighborhood Improvement Plan Amendment as the renewed community vision for the future of the Edenvale/Great Oaks SNI Planning Area.

Accepted.

- (b) Encourage Edenvale/Great Oaks area residents, property owners and community members to continue to dedicate their time, energy and resources towards the Plan Amendment while continuing with their community-building activities.

CEQA: Strong Neighborhoods Initiative Program EIR Resolution No. 71045. Council District 2. SNI: Edenvale/Great Oaks. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (City Manager's Office/Redevelopment Agency)

Approved.

11.3 Rezoning real property located on the southwest corner of Berryessa Road and N. 15th Street.

Recommendation: Consideration of an ordinance rezoning the real property located on the southwest corner of Berryessa Road and N. 15th Street (674 Berryessa Road) from the R-2 Residential Zoning District to the A(PD) Planned Development Zoning District to allow the demolition of a two-family dwelling and three multi-family dwellings and the construction of up to four single-family detached residences on a 0.25 gross acre site (Somot Properties, LLC). SNI: 13th Street. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC08-016 – District 3

Ordinance No. 28410 passed for publication, as amended:

- (1) **Technical modification of the minimum parcel size to 2,300 square feet.**
- (2) **Up to 40% of the 15th Street frontage may have a setback of 7 feet on the ground floor, excluding porches.**

11. PUBLIC HEARINGS

11.4 Rezoning real property located on the south side of West San Carlos Street between Meridian Avenue and Page Street.

Recommendation: Consider an ordinance rezoning the real property located on the south side of West San Carlos Street between Meridian Avenue and Page Street from County and CP Commercial Pedestrian Zoning District Commercial Pedestrian Zoning to A(PD) Planned Development Zoning District to allow up to 218 attached single family residences and 22,600 square feet for commercial uses on a 3.59 gross acres site (Dubrovnik Properties, LLC & Nicholas Gera, Owner). SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC07-096 – District 6

(Continued from 9/9/08 – Item 11.4)

Ordinance No. 28411 passed for publication, as amended, with the addition that the park and open space for this project have a permanent easement for public access.

- Notice of City Engineer's Pending Decision on Final Maps
None.
- Open Forum
None were presented.
- Adjournment
The Council of the City of San José was adjourned at 10:12 p.m.

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 2:54 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

8.1 Agency Board and City Council actions related to issuance of Merged Area Redevelopment Project Revenue Bonds in an amount not to exceed \$119,000,000.

Recommendations:

- (a) Adoption of a resolution by the Redevelopment Agency Board:
 - (1) Authorizing the issuance of Merged Area Redevelopment Project Tax Allocation Bonds, in two or more series (tax-exempt and taxable), in an aggregate principal amount not to exceed \$119,000,000 (the 2008 Bonds); and approving in substantially final form the Twelfth Supplemental Indenture of Trust with Union Bank, as Trustee.
 - (2) Authorizing the competitive sale of the 2008 Bonds.
 - (3) Approving in substantially final form the Preliminary Official Statement (POS), Official Notices Inviting Bids and Notice of Intention to Sell Bonds, and authorizing Agency staff to distribute the POS.
 - (4) Authorizing all officers, agents and employees to take such actions and execute such documents necessary and desirable to accomplish issuance of the 2008 Bonds.
 - (5) Authorizing the Executive Director to qualify the 2008 Bonds for municipal bond insurance in order to give bidders for the 2008 Bonds the option to purchase such insurance.

Redevelopment Agency Resolution No. 5858 adopted.

- (b) Adoption of a resolution by the City Council approving the issuance of Merged Area Redevelopment Project Tax Allocation Bonds, in two or more series (tax-exempt and taxable), in an aggregate principal amount not to exceed \$119,000,000, and affirming subordination of statutory pass-through payments to debt service on the bonds.

[MERGED]

Resolution No. 74595 adopted.

8. JOINT REDEVELOPMENT AGENCY ITEM

8.2 City Council and Agency Board actions related to award of a contract for construction of the SoFA Sidewalk Demonstration Project.

Recommendation:

- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of the proposed improvements to the SoFA Sidewalk Demonstration Project.
- (b) Approval by the Redevelopment Agency Board of a contract for construction of the SoFA Sidewalk Demonstration Project, for a total construction cost not to exceed \$600,000 including the contingency.

CEQA: Resolution No 72767, File No. PP08-119. [MARKET GATEWAY] (Deferred from 6/24/08 and 8/26/08 - Item 8.1)

Dropped.

8.3 Acceptance of an update on the Convention Center Phase 1 Expansion Project.

Recommendation: Acceptance of the update on the schematic design for the renovation and expansion of the San Jose McEnery Convention Center. CEQA: Not a Project.

[MERGED] (Deferred from 8/26/08 - Item 8.3)

Accepted.

Staff requested to return with an analysis of the impact to the retail community.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 4:06 p.m.